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Nos. 386, 387, 396 and 410

Supreme Court, U.S.
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IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1970

No. 386

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION, *Appellants*
v.
CITY OF CHICAGO, et al., *Appellees*.

No. 387

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION, *Appellants*,
v.
TENNESSEE PUBLIC SERVICE COMMISSION, et al., *Appellees*.

No. 396

LOUISVILLE AND NASHVILLE RAILROAD COMPANY, *Appellant*,
v.
TENNESSEE PUBLIC SERVICE COMMISSION, et al., *Appellees*.

No. 410

CHICAGO AND EASTERN ILLINOIS RAILROAD COMPANY, *Appellant*,
v.
CITY OF CHICAGO, et al., *Appellees*.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

PETITION FOR REHEARING

(Names of counsel appear inside front cover)

November, 1970

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ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

PETITION FOR REHEARING

Appellees petition that rehearing be granted for the judgment entered October 19, 1970, which summarily reversed the decision of a three-judge district court.

Subsequent to entry of the judgment below, a different three-judge panel in the same district decided *City of Chicago v. United States*, 314 F. Supp. 866, which has been appealed to this court in Nos. 789, 793, 794 and 797. Although the questions are not identical, the subject matter in the eight appeals does have some relationship.

We point out that the meaning of "train" for the purposes of the statute involved does not appear to have been consistently defined or applied by the agency,[1] if indeed the concept of "train" has any bearing upon the agency action in some situations.[2]

It is suggested that rehearing be granted, with briefs and argument, in light of the more recent appeals. *Pickett v. Union Terminal Company*, 313 U.S. 591, 314 U.S. 704, 315 U.S. 386, 394; *Forgett v. United States*, 383 U.S. 926, 390 U.S. 203.

Respectfully submitted,

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[1] Cf. *Kansas City S. Ry. Co. and Louisiana & A. Ry. Co. Discon.*, 333 I.C.C. 51, 55-56, 73-75, and cases cited therein.

[2] Cf. *Southern Pac. Co. Discontinuance-Ogden to Oakland*, 333 I.C.C. 525, 527-528.

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November, 1970

CERTIFICATE OF COUNSEL

I certify that this petition for rehearing is presented in good faith and not for delay.

Gordon P. MacDougall